THE

TRIAL AT LARGE

OF

JOHN RUSBY,

CORN-FACTOR,

FOR

REGRATING CORN,

At the Corn Exchange, Mark-lane, London, 8th Nov. last;

TRIED BEFORE

Lord KENYON and a Special Jury,

In the Court of King's Bench, Guildhall,

the 4th July, 1800.

TAKEN IN SHORT-HAND BY

A BARRISTER OF THE INNER TEMPLE.

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REPORT OF A TRIAL

FOR

REGRATING.

THE KING *versus* JOHN RUSBY.

THIS is as momentous a cauſe as ever preſented itſelf in a Court of Juſtice: it concerns every man in the kingdom, and calls moſt loudly for the interpoſition of the Legiſlature of the country.

Mr. KNAPP opened the pleadings; from which it appeared, that, on the 8th of November laſt, the defendant, Mr. Ruſby, bought of Shrimpton and Co. 90 quarters of oats, in the market called the Corn Exchange, at 41s. per quarter, and did unlawfully regrate 30 quarters of the ſaid oats to William Hardy, for the price of 43s. per quarter.

Mr.

Mr. ERSKINE ſaid, this was a proſecution againſt the Defendant; and although, certainly, he neither could nor ought to claim more than juſtice againſt him, and, if he did, he ſhould receive no more at their hands, yet he had a right to ſay, that this was a caſe that deſerved all their attention and all their conſideration. There was nothing, perhaps, that was more the ſubject of regret than the preſent high price of proviſions; and perhaps, when we came to conſider the cauſe of it, we ſhould not have to look for it in the elements, but in the malpractices of thoſe who committed offences againſt the public trade of the kingdom. The remedy was not to be found in Legiſlative Inſtitutions; the remedy was not to be found in ſweeping away, with a rude and ſudden hand, Statutes that had been growing up for ages for the protection of trade—much leſs by raſh, unadviſed experiments, ſome of which, he underſtood, were making at that moment. But it ſtruck him that the beſt way by which theſe evils were to be remedied was, by putting in force thoſe laws that yet remained, by going up

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to the ſource and fountain of the law of the country, to ſee what it was, and whether it was ſufficient for all the purpoſes of juſtice; and if it was inſufficient, it would give the Legiſlature an opportunity of ſeeing whether they ought not to build up again that fabric which was deſtroyed at once.

It would be found that the Common Law had this great advantage belonging to it, that it was founded on broad, ſound, intelligible principles; that Judges and Juries had an opportunity of moulding it to the purpoſes and ends of juſtice; whereas certainly it very often happened, when ſtatutes were made to repreſs any particular offences, the preciſion neceſſary, and wholeſomely neceſſary, produced very great difficulties; and ſometimes caſes might occur that might not be within the evil, and yet be within the ſtatute, and might put it out of countenance. The offence here charged againſt the defendant, he apprehended, did not require the aid of any ſtatute to puniſh it. He conceived the offence was founded in the very principles of trade and commerce,

and

and the offence was as ancient as the country and its laws. The three offences of foreſtalling, engroſſing, and regrating, were, by Lord Coke, in the 3d Inſtitute, all comprehended under the word *Foreſtalling*, as an offence againſt trade. He conſidered this offence to be this : A man might come into a market, and buy what was to be ſold there ; and he might buy for his own conſumption, or for the purpoſe of commerce, to ſell it again ; no doubt he might. But the offence here charged was, that the market was not allowed to take a fair courſe ; that when corn was brought to it by thoſe who grow it, or by thoſe who had bought it in the firſt ſtages, certain people came to the market for the purpoſe of ſetting an artificial price on it, and, by their own artifices and manœuvres, or in combination with others, to buy that corn, and to ſell it in the ſame market at an advanced price, by which the conſumer had not the ſame advantage he would have had if that had not taken place; for, as Lord Coke juſtly obſerved, in proportion to the number of hands it went through, the price would be increaſed to the conſumer.

Having

Having ſtated theſe preliminary obſervations, Mr. Erſkine ſaid he would tell the Jury in a few words what this caſe was. He underſtood there was a ſet of perſons who had thruſt themſelves into the Corn Market of this great city, between the corn-factors, who repreſented the corn-ſellers, and the buyers. Thoſe perſons were numerous, and had poſſeſſed themſelves of ſtands in the market. The mode of doing buſineſs was this: The corn remained in bulk, either in the veſſels in which it was brought into the different ports of the kingdom, or in lighters. Samples were put into bags, and delivered to the corn-factors; and great care was taken by the Statutes that factors ſhould not be ſellers of corn; and they were obliged to take an oath, as the repreſentatives of the ſellers, that they would expoſe it to ſale fairly. The ſeller fixes the price at which the factor is to ſell, and the quantity to be ſold was generally marked on the bag. If this, therefore, were ſuffered to take its natural courſe, the market would be pretty even. Without the intervention of theſe jobbers here

here complained of, the market would find its own level, and ſettle at its fair price. But the jobbers come, and this is the practice—they go round to the different ſtands, and ſay to a corn-factor, "What do you ſell this at?" The factor tells them the price. They ſay to the factor, "We will give you this price at all events, if you cannot get a better." After this comes the conſumer; and if the factor gets a better price, no harm is done; but if he does not, if the factor is about to receive no more from the conſumer than the jobber offered him, the jobber, in conſequence of his pre-emption, ſteps in, and has the preference; the conſequence is, the conſumer muſt pay an higher price. The jobbers inſtantly take it away, and put it on their own ſtands, by virtue of their fraudulent pre-emption. The conſumer does not get it, of courſe, from the factor, becauſe it is whipped away by the jobber; and then he expoſes the ſame ſample to ſale, and ſells it at an advanced price; and he will not let it go till it comes up to a certain price. Now, could any man contemplate that practice without

ſaying

ſaying it was an offence againſt public trade? —With regard to engroſſing, what quantity would be conſidered as engroſſing muſt be matter of fact, to be left to a Jury.—That, perhaps, was not to be meaſured by the ſimplicity of ancient times, but muſt be meaſured by circumſtances. But what made it a miſdemeanour in one age, made it ſo, and muſt make it ſo, in all ages; and that was, by making the commodity paſs through different hands, it increaſed the price. Beſides the ſtatutes on this ſubject, which were repealed by the 12th of the preſent King, in which Mr. Burke took the lead, he obſerved that the 31ſt of the King repealed the 15th Cha. II. c. 7, ſect. 4; but the words in parentheſis in that ſection ſtill remain untouched. The proſecutors in this caſe had many difficulties to encounter in every corner; but he truſted that the ſanctity of an oath would enable them to lay this tranſaction before the Jury. It was not an immorality that was here complained of, but an offence, for which the defendant muſt anſwer. If the defendant conceived he was doing that which was

lawful, the Court would conſider that when he received judgment on the conviction of a Jury: their conviction would have a mighty operation, becauſe it would be a proclamation of the law, and a promulgation of the penalties. It would bring back the market to that ſtate of equity at which it ought to be fixed, and the poor would be relieved from their accumulated diſtreſſes. He thought the proſecution would be attended with the beſt conſequences. Mr. Snell, who is a corn-chandler, would tell the Jury, that on the 8th of November laſt he came to the market, and looked at a ſample of oats, marked 90, which was placed on Meſſrs. Shrimpton's ſtand: They aſked 44s. per quarter for it. Mr. Snell did not purchaſe it: He ſaw Mr. Ruſby, who is a jobber, and is in company with Thomas and William Smith, contract for it at 41s. per quarter, and carry it to his own ſtand: and, very ſoon after, it was ſent to the ſtand of Preſt and Nattraſs, who ſold 30 quarters of it for the defendant, at 43s. per quarter, to a Mr. Hardy. Preſt and Nattraſs alſo ſold the other 60 quarters, as the Defendant's

dant's Agents. This was the nature of the caſe; and after the Jury were in poſſeſſion of the evidence, they would do juſtice between the public and the defendant.

Mr. Richard Snell ſwore, he is a corn-chandler, reſiding in this town. There are, he ſaid, factors who ſell for the proprietors of corn. They have what are called ſtands upon the market; they are ſomething like deſks, upon which ſamples are expoſed to view. The ſample has generally the factor's name upon it, and the number of quarters in the bulk for ſale.—The perſon who wiſhes to buy applies to the factor for the price of the ſample; the price is given him at ſo many ſhillings a quarter, and of courſe the dealer makes his bargain as well as he can. He had been in the habit of attending the Corn Exchange for near 15 years. He had, of late, experienced great interruption in making purchaſes of corn to the beſt advantage. Sometimes he went to the factor, and aſked the price of a ſample; he aſked a certain price; the witneſs uſually offered a price ſomewhat

what lower, and endeavoured to make the moſt he could of the market. The factor uſually ſaid, " I cannot take that price; I am offered ſo much by the jobber;" or, that " he has already ſold the commodity; but, if he has not, he had that offer already made to him." He was at the Corn Exchange on the 8th of November laſt, for the purpoſe of purchaſing oats. He called at the ſtand of Meſſrs. Shrimpton and Co. corn-factors: he ſaw a ſample of oats marked No. 90.; he made an offer to the factor, and examined the ſample. He handled and inſpected the corn, and made ſome obſervations on it. He aſked 44s. a quarter for it: the witneſs ſaid, " it was a little warm." He then learnt where the bulk was, of which this was the ſample; he learnt that the bulk which belonged to Meſſrs. Shrimpton and Co. was on board Mr. Hollingſworth's craft. He offered 40s. per quarter for the oats, ſaying, he thought 44s. a great deal too much.—The offer was not accepted; he ſaid, " he could not take that;" upon which the witneſs quitted the ſtand; in a

few

few minutes, as he was going along the market, to ſee if he could do any better, he ſaw Mr. Ruſby, the defendant in this cauſe, at Meſſrs. Shrimpton's ſtand, with the very ſample in his hand, that the witneſs had been bargaining for; Mr. Ruſby bargained for and bought the oats; and the moment he had done ſo, he carried the ſample in his own hands, to his own ſtand. The witneſs knew the ſample perfectly well; it was marked No. 90. Mr. Ruſby is a jobber, and has a ſtand at the market. The jobbers are thoſe who buy corn to ſell again. Mr. Ruſby carried this ſample of the corn to his own ſtand. He opened the bag immediately, and expoſed it for ſale at his own ſtand. The witneſs was poſitively certain that the bag he, the defendant, thus carried away, was the one which the witneſs had been endeavouring to bargain for; and in leſs than five minutes, this very ſample was on the ſtand of Meſſrs. Preſt and Nattraſs, who are factors on the Corn Exchange. The witneſs went to the ſtand of Meſſrs. Preſt and Nattraſs, and aſked the price of the corn again, when he was told the price

was

was 45s. the quarter. This he had do difficulty in aſcertaining to be the very ſame ſample which he had offered to buy of Shrimpton and Co. and which was bought by the defendant, Mr. Ruſby, and taken to his own ſtand, and thus ſold to Meſſrs. Nattraſs and Preſt: for he examined it, and there he diſcovered the quantity, as before, to be 90 quarters, and that it was in the barge of Mr. Hollingſworth.

Mr. John Sherwood ſaid, he was in company with Shrimpton and Greenſide, who were corn-factors. He knew the laſt witneſs, and believed that on the 8th of November laſt he made an application to the witneſs reſpecting the price of ſome oats which were then on their ſtand, and the bag containing the ſample was marked 90. He did not immediately recollect the price he aſked him; it might be 44s. or 43s. He ſold that ſample of oats to Smith and Ruſby at 41s. He had no doubt that the price he aſked Mr. Snell was 43s. or 44s. The oats were then lying in Mr. Hollingſworth's lighters. He ſold them to Mr. Ruſby perſonally

ſonally about an hour after Snell had applied for them. He did not ſee the ſample again in the courſe of that day. On croſs-examination, he ſaid, that Ruſby came after Snell to their ſtand.

Mr. Nattraſs was next examined. He ſaid he was a corn-factor, in partnerſhip with Mr. Preſt; and had been in that ſituation about five years. He did not particularly remember Mr. Ruſby bringing him a ſample bag, though he believed he did. He ſold thirty quarters of oats for Smith and Ruſby. They had ſo many ſamples brought to their ſtand, that it was impoſſible for him to remember every ſample exactly. He had ſeen Mr. Ruſby, and had various converſations with him on the ſubject of this cauſe. He had mentioned the circumſtances of it to Mr. Ruſby ſeveral times. He believed he ſaw him the day before yeſterday. He had nothing more than common converſation with him. Ruſby did not adviſe him not to bring his book. He admitted that he had a *ſubpœna ducis tecum*, and that the defendant's

dant's Attorney told him his book would be neceſſary. But he had brought a copy from his book of this tranſaction, which he thought would be ſufficient. [*This witneſs was here ordered to go home, and bring his book.*]

Mr. Hardy was next examined. He ſaid, that on the 8th of November laſt, he bought thirty quarters of oats of Preſt and Nattraſs, at 43s. per quarter; they appeared to be cool, and in good condition. The bag was marked 90.

Mr. Hollingsworth ſaid, he was a lighterman; and ſpoke to theſe oats being in his lighters.

Mr. Sweetman ſaid, he was a corn-factor, and had meaſured theſe oats.

Mr. Nattraſs had brought his book, and was here further examined. He ſaid, he could not ſwear that it was Ruſby that had delivered to him that ſample, though it was very likely it was he. He could not ſwear who

who brought it. When his book was examined, it appeared that it had been originally entered on account of Smith, Rusby and Co.; but *Rusby and Co.* was ſtruck out, and *Thomas* before *Smith* was interlined. The way the witneſs accounted for that eraſure was, that Thomas Smith, or ſome of his people, had come to him ſome time after the ſale, and ſaid theſe oats were for himſelf. He could not ſwear to the day when that eraſure took place, but he poſitively ſwore that it was before the time when he heard of this proſecution being inſtituted; he thought it was a few days after the ſale. When his book, and what he in the firſt part of his evidence called *a copy* from it, were compared, they did not agree; on which he ſaid, he did not repreſent it to be a copy, but only an extract from his book.

The notes of a ſhort-hand writer were here appealed to, when it appeared that he had ſaid, repeatedly, it was a copy of the tranſaction from his book.

Lord KENYON admoniſhed this witneſs over and over again, and ſaid he might be a

rich man, and he might think himſelf a reſpectable man, but his conduct was certainly moſt extraordinary.

Mr. LAW, Counſel for the defendant, in the courſe of a very able ſpeech, among other things obſerved, that he ſhould ſatisfy the Court and the Jury that this offence was not committed by the defendant, Mr. Ruſby, but by Thomas Smith, his ſenior partner. Smith thought it was not a good bargain, and wiſhed ſpeedily to get quit of it again; and therefore immediately carried the ſample to the ſtand of Preſt and Nattraſs. Ruſby and William Smith, the other two partners, diſſented from it. Ruſby, in particular, proteſted againſt it; and that circumſtance he ſhould prove by Thomas Smith himſelf. And ſurely, though the act of one partner was the act of another as to the partnerſhip, yet it would not be ſaid that the act of one was the act of another in a crime.

Lord KENYON here obſerved, that there was a caſe in Lord Raymond's Reports, where Lord Holt had laid it down, that the act

act of one might be held to be the act of another in a miſdemeanour. If a ſervant threw a quantity of rubbiſh into the ſtreet, which was a nuiſance, the maſter was anſwerable. The caſe was this—the ſervant of a builder having thrown a quantity of rubbiſh in the ſtreet, and having left no light near it, a coach was overturned in the night; and it was held *reſpondeat ſuperior*.

The Counſel ſaid, if one partner accepted a bill of exchange, it bound the whole partnerſhip; but if one partner forged a bill, that could not affect his partners.

Lord KENYON ſaid, Certainly not.

The Counſel ſaid, he had heard about one hundred times from his Learned Friend on the other ſide, in caſes of Libel, and where it did not apply, *actus non facit reum, niſi mens ſit rea*. Thomas Smith conceiving this was a falling article, carried it to the ſtand of Nattraſs and Preſt: Ruſby reſiſted the reſale, and Smith carried the reſale into execution againſt that reſiſtance.

Mr. Thomas Smith, the defendant's partner, was then ſworn.

Lord

Lord KENYON told the witneſs, that if any queſtions were aſked of him which had a tendency to criminate himſelf, he was not bound to anſwer them.

Mr. GARROW told the witneſs, that his evidence was taken down with a view of being ſubmitted to a Grand Jury.

The witneſs was then examined, and he gave his evidence nearly as follows:—" I am the ſenior partner in the houſe of Smith, Ruſby and Smith. I remember Mr. Ruſby brought the ſample of oats which he had purchaſed of Meſſrs. Shrimpton and Co. on the 8th of November laſt, ſoon after I came into the market: he brought them to me in the market, and told me he had bought them that morning, and that he had given 41s. for them. After I came to examine them, I found he had given more than the market-price for them. Mr. Ruſby ſaid he conſidered them as worth the money. (I believe Mr. W. Smith, another partner, was there.) I told Mr. Ruſby, that as the oats were in bad condition, being warm, it would be beſt to have them reſold. Mr. Ruſby aſked me, why I wiſhed the

the oats to be reſold? I ſaid, "in conſequence of their being warm." There not being ſale for this kind of oats, and they being ſo much out of condition, I thought they could not be worth much money.—Mr. Ruſby ſtated to me, that it would be a very great offence to the houſe of Shrimpton and Company if they were reſold, and that, as the quantity was ſmall, it was not an object to us."

Lord KENYON.—"That the loſs which ſhould happen would be no object to you?"

Witneſs.—"Yes, my Lord; exactly ſo.—Mr. Ruſby then went away, and I ſaw him again in about a quarter of an hour after. Nothing in the mean time was done with the oats. I aſked Mr. Ruſby then, if he was of the ſame opinion as at firſt? he ſaid, yes, he would perſiſt in his opinion, and that the oats ſhould not be reſold. He told me, if they were reſold, he would have nothing whatever to do with it, as the houſe of Shrimpton and Company would blame us for ſelling the oats on the ſame day, and therefore that he would have nothing to do with the tranſaction. Nothing whatever was

ſaid

ſaid about a broker; nothing of that kind paſſed. Mr. Ruſby went round the market, tranſacting the ordinary buſineſs of it. I had no further converſation whatever with him till the oats were in fact ſold. I took the ſample of oats to Meſſrs. Preſt and Nattraſs's ſtand. There were many unpleaſant words between Mr. Ruſby and myſelf, in conſequence of the oats being ſold; and Preſt and Nattraſs bought them before Mr. Ruſby knew any thing of the tranſaction, or of their having the ſample. I told Mr. Ruſby, as we walked in the corn market, if he was diſſatisfied, I would take it all upon myſelf, profit or loſs; this was after they were ſold, and after the market hours. I communicated this the following market day, and deſired him to alter the ſale to that of Thomas Smith only; and that was the firſt time that I ſaw Mr. Nattraſs: I do not know, however, that I ſaw Mr. Nattraſs. I think I did; it was Mr. Preſt I delivered the ſample to, to the beſt of my knowledge. I think I applied to Mr. Nattraſs afterwards. I do not know whether Mr. Nattraſs was preſent when I delivered

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the ſample to Mr. Preſt. Mr. Ruſby did not know of the ſale of the 30 quarters, till they were actually ſold by me; that was done by me after his refuſal, and upon my own authority. I conceived I had a right to act as I thought proper, and that I was not offending againſt the Legiſlature."

Mr. Smith was croſs-examined by Mr. GARROW. The ſame queſtions were repeated to him three or four times over, before he would anſwer them; and he was repeatedly admoniſhed by Lord Kenyon, who told him his conduct was moſt extraordinary, for that he had expreſſed himſelf doubtfully, where he muſt be poſſeſſed of poſitive knowledge. At laſt he admitted that there were ſales and re-ſales at the corn market in the ſame day. He was aſked, what the profits were which he had known upon theſe re-ſales?—He ſaid he had known it 3d. per quarter; and then he went up to 6d.—then 9d.—then 1s.—then 18d.—and then 2s. as the market might be, he ſaid—he did not know——

Here Lord KENYON expreſſed great concern

cern at this mode of giving evidence, and ſaid this would never do.

The witneſs was then aſked, Whether he had not repeatedly known the profits of the re-ſale to be more than 2s. per quarter?

The witneſs aſked Lord Kenyon, if he was bound to anſwer?

His Lordſhip ſaid he was; and if he refuſed, he muſt be committed.

Mr. GARROW then ſaid, he would put a queſtion to the witneſs which he was not bound to anſwer, and he would take his refuſal to anſwer it as well as an anſwer. It was this—"Have not you, yourſelf, reſold in the market, in the ſame day you bought it, corn, at the profit of 5s. a quarter?

Witneſs.—"I do not chuſe to anſwer that queſtion."

"That will do as well for my purpoſe as if you had anſwered *yes*," ſaid Mr. Garrow. "This is a common practice, a common hoax, in the market: a man buys and ſells his own corn three or four times a day, and they laugh at it upon the Corn Exchange: and yet I have been very lately at the Bar of

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the Houſe of Commons, where it was proved, at one in the morning, there was nothing going on at the Corn Exchange which is contrary to the intereſt of the public: I wiſh I could have this defendant tried before I appeared there."

Mr. *William Smith* ſaid he was a partner in the houſe of his brother, Thomas Smith, and Ruſby. On the propoſition of the re-ſale being made by Thomas Smith, Ruſby objected to it in ſevere terms. He ſaid it would be uſing Shrimpton's houſe very ill to give thoſe oats to another factor to ſell on that day. He and Ruſby agreed in thinking the oats were worth the money that were given for them. Ruſby ſaid he was very ſorry that his brother ſhould give them to Preſt and Nattras to re-ſell. The account of theſe oats was carried to Thomas Smith alone; and that was done before there was any idea of a proſecution. When Ruſby expreſſed his diſſatisfaction, T. Smith ſaid he would take them to his own account. He did not hear of any proſecution till ſome time after Chriſtmas.

Mr. ERSKINE, on the part of the proſecution, made a moſt eloquent reply, in the courſe of which he expoſed the abſurdity of the excuſe ſet up by the defendant, expreſſed his firm perſuaſion that the verdict of the Jury would convey glad tidings to the people, and, above all, to the poor, of which claſs he ſpoke in terms of the higheſt regard. There was no country on the face of the habitable globe, he ſaid, where the poor were more virtuous, more induſtrious, or more entitled, by every claim of juſtice and humanity, to the protection of their ſuperiors.

LORD KENYON'S CHARGE TO THE JURY.

"*Gentlemen of the Jury,*

"I have not often been preſent when a cauſe of more conſequence has been decided. Cauſes often come here where large ſums and great wealth, real or perſonal, are diſpoſed of, and where the intereſt of individuals is deeply concerned; and I have always found in that box the attention and abilities that were adequate

to

to the deciſion of them. But the cauſe now preſented to you is one in which all ranks of people, rich and poor, but more particularly thoſe of the lower claſſes of ſociety, are deeply intereſted. Some may have the comforts and conveniences of life, but it is fit that all ſhould have the neceſſaries of life; and if, in conſequence of the intrigues and combinations that are formed in any quarter of the kingdom, that part of the community without which the ſuperior ranks cannot exiſt, have not thoſe neceſſaries, they are put in a ſituation in which the wiſdom of no country will ever place them. The legiſlature of all nations, and the adminiſtration of juſtice in all countries, are never better employed —I had almoſt ſaid are never ſo well employed—as when they condeſcend to look at thoſe who are at the greateſt diſtance from them: humanity calls for it; the duties of religion call for it; and if there are any minds not affected by religion or humanity, yet their own intereſts call moſt clamorouſly for it.

Gentlemen, the Law has been ſtated

to

to you; and although the Act of Parliament mainly which has been on the Statute book about 150 years, is certainly repealed, and in my opinion was in an evil hour repealed; yet, thank God, the power which repealed it was not informed of or did not intend to repeal the provisions made by Common Law. That which is called Common Law existed undoubtedly after society was formed. In very ancient times one cannot trace it with much accuracy or precision, but we have reason to suppose that wisdom had considerably advanced before the Conqueror came over, or before the beginning of the Statute Book, about the time of Henry the Third. Among our Saxon ancestors we may suppose the Common Law had its origin. However, without minutely tracing it to its sources, there is no doubt now but that the Common Law provides, and wisely provides, for the three offences called *forestalling*, *engrossing*, and *regrating*. And I believe, since the exigencies of the times required it, all the Judges have, in their charges to Grand Juries, told them, that although

although the Statute Law upon this ſubject has been repealed, yet that this is an offence by the Common Law. Nobody has controverted it. It has been very properly admitted by the Counſel who conducted the cauſe on the part of the defendant. The ſingle queſtion is, whether this offence exiſts? and which, we all agree, ought to be remedied. The queſtion is, whether this offence has been committed by the party who is now before you as a defendant?

Gentlemen, ſpeculators have ſaid that no ſuch offence can exiſt, for that the nation would be prejudiced by conſidering it to be an offence. A very learned man compares it to witchcraft. I wiſh the life of Dr. Adam Smith, who is a great name in the country, had been prolonged.—There is a loſs of part of the public ſtock, when a virtuous and good man dies. I wiſh we could have that ſagacious author here, to have heard this tranſaction as it has been laid open by the witneſſes, and then to have told us whether foreſtalling, engroſſing, and regrating were as imaginary as witchcraft. Suppoſe he had been told that

cheeſe

cheeſe and candles, fiſh and meat, &c. had been brought to market to anſwer the exigencies of the day, of the next day, and perhaps of the third day, and that a man with a large purſe had come and bought it all up, and had afterwards at a profit of 5 per cent. ſold it to the poor, whoſe daily labour could not go farther than to ſupply their daily neceſſities. Such a tranſaction, I am afraid, is no uncommon thing. I ſhould, after this, have been glad to have aſked that excellent perſon, whether he was now convinced that this was really an offence? Surely that which enhances the degree of this offence, is the preſent ſituation of the poor: and that man muſt be devoid of all feeling, who does not feel deeply for their diſtreſs.

The learned advocate ſays, it is not an offence committed by his client. Mr. Nattras, who I believe ſpoke the truth in the beginning of his evidence, before the tranſaction was fully opened, ſaid he believed that Ruſby delivered to him the ſample. When he was called up the ſecond time, he did not know from whom he had received it.

it.—Gentlemen, we are obliged to hear all the witneſſes on both ſides, and we are obliged to hear a different number of witneſſes on different ſides. But there is one rule that has and ought to be adopted by all Juries, and that is, that witneſſes *non numerentur, ſed ponderentur*. You are bound to hear and to attend to all the witneſſes. But I proteſt I do not believe what Mr. T. Smith ſwore when he tells you there were words between him and Ruſby on account of this tranſaction. Why ſhould there have been any words on account of this tranſaction, which was not to be diſtinguiſhed from many others that had gone before, and which were of daily occurrence? It requires a degree of credulity to believe this evidence, to which I am not liable. It is almoſt the perfection of the human heart to exhibit friendſhip, and to do all that we can poſſibly for our friends: but that ought always to be kept within certain bounds, and ought never to lead us to tranſgreſs the laws of God or man. A man at all times, and particularly when he is ſpeaking under the ſolemnities of an

oath,

oath, ought to have a moſt ſacred regard to truth. We are not monks or hermits, taken from our cells, knowing nothing of the world; but we have been bred up, I hope, in thoſe ſcenes of life which exhibit more knowledge and more virtue than ſome other places which I mentioned before, and which I ſhall not repeat again, though I am proud to have mentioned them, and I am proud to ſtand acquitted in the eyes of all my country.

In conſequence of the hint which I gave to the very learned Counſel for the defendant, he put this caſe on the ground I think on which it ought to ſtand. He knows that, for his abilities, perſonal character, and every thing that belongs to him, I have the moſt unfeigned reſpect. The defendant is liable for acts committed by his partners, as in this caſe, where his intereſt was concerned; and you cannot ſhut the door againſt the truth. Was not his intereſt concerned in this caſe, when in conſequence of this ſecond ſale in the market there was a profit of 5 per cent.? Suppoſing that it ever took place, it was

equally

equally for the benefit of the whole partnerſhip; and I am bound to believe that it did take place. Where are the books? Mr. Nattraſs told you he had not brought his book, but that he had brought a copy of it as far as regarded this tranſaction. When the book was produced, and the paper compared with it, was it a copy? It was not a copy, and the alteration in the original entry of the book is extremely ſuſpicious. Gentlemen, you will conſider the whole of the evidence. This is a moſt momentous caſe at the preſent moment. What would you ſay to this caſe, if it were ſtated to you that a rich man planted meſſengers at all avenues, and bought up every thing that was coming to town, and raiſed the price of proviſions 50 per cent.? A precedent made in a court of juſtice, to ſtop the torrent of ſuch affliction to the poor, is certainly uſeful to the public.

The Jury immediately found the defendant—GUILTY.

Lord KENYON, addreſſing himſelf to the Jury, ſaid—"You have conferred the

greateſt benefit on the country, I believe, that any Jury almoſt ever did."

There was another indictment for the ſame offence, which ſtands over. His Lordſhip obſerved—"That if the ſame virtue and public ſpirit which had commenced this proſecution ſhould induce the proſecutors to prefer another indictment againſt *Thomas Smith*, from the evidence he had given, he would ſtand unprotected."

THE END.

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